

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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KIRAN VUPPALA,

CASE NO: 1:20-cv-6808

Plaintiff,

vs.

**COMPLAINT**

535 HUDSON REALTY LLC, a New York  
limited liability company,

Defendant.

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Plaintiff, KIRAN VUPPALA (hereinafter the “Plaintiff”), through his undersigned counsel, hereby files this Complaint and sues 535 HUDSON REALTY LLC, a New York limited liability company, (hereinafter, the “Defendant”), for injunctive relief, attorney’s fees and costs (including, but not limited to, court costs and expert fees) pursuant to 42 U.S.C. §12181, et. seq., of the AMERICANS WITH DISABILITIES ACT (“ADA”), the NEW YORK CITY HUMAN RIGHTS LAW (“NYCHRL”), and the NEW YORK STATE HUMAN RIGHTS LAW (“NYSHRL”) and alleges:

**JURISDICTION AND PARTIES**

1. This is an action for declaratory and injunctive relief pursuant to Title III of the Americans With Disabilities Act, 42 U.S.C. §12181, et. seq., (hereinafter referred to as the “ADA”). This Court is vested with original jurisdiction under 28 U.S.C. §1331 and §343.

2. Venue is proper in this Court, pursuant to 28 U.S.C. §1391(b) in that all events giving rise to this lawsuit occurred in New York.

3. The remedies provided by the New York State Human Rights Law are not exclusive and state administrative remedies need not be exhausted in connection with suits brought under the Federal Civil Rights Act.

4. At the time of Plaintiff's visit to Defendant's Property, and previous tenant Macondo Belts, prior to instituting the instant action, KIRAN VUPPALA (hereinafter referred to as "Plaintiff"), suffered from what constitutes a "qualified disability" under the Americans With Disability Act of 1990, as he is a paraplegic and uses a wheelchair for mobility. The Plaintiff personally visited Defendant's Property, but was denied full and equal access to, and full and equal enjoyment of, the facilities at Defendant's Property, which is the subject of this lawsuit.

5. The Defendant, 535 HUDSON REALTY LLC, a New York limited liability company, is conducting business within the State of New York. Upon information and belief 535 HUDSON REALTY LLC, is the owner, landlord and/or lessor of the real property, where the Macondo Belts Subject Facility was, and Defendant's Property is located at 535 Hudson Street, New York, New York, which is the subject of this action (hereinafter and heretofore referred to as "Defendant's Property"), and which also maintains and controls Defendant's Property.

6. All events giving rise to this lawsuit occurred in the City of New York, State of New York. Venue is proper in this Court as the premises is located in the State of New York.

**COUNT I – VIOLATIONS OF THE AMERICANS WITH DISABILITIES ACT**

7. On or about July 26, 1990, Congress enacted the Americans With Disabilities Act ("ADA"), 42 U.S.C. §12101, et. seq. Commercial enterprises were provided one and a half years from enactment of the statute to implement its requirements.

The effective date of the Title III of the ADA was January 26, 1992. 42 U.S.C. §12181; 20 C.F.R. §36.508(a).

8. Congress found, among other things, that:

- (i) some 43,000,000 Americans have one or more physical or mental disabilities, and this number shall increase as the population continues to grow older;
- (ii) historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against disabled individuals continue to be a pervasive social problem, requiring serious attention;
- (iii) discrimination against disabled individuals persists in such critical areas as employment, housing, public accommodations, transportation, communication, recreation, institutionalization, health services, voting and access to public services and public facilities;
- (iv) individuals with disabilities continually suffer forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, failure to make modifications to existing facilities and practices. Exclusionary qualification standards and criteria, segregation, and regulation to lesser services, programs, benefits, or other opportunities; and,
- (v) the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our country is justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and non-productivity.

42 U.S.C. §12101(a)(1)-(3), (5) and (9).

9. Congress explicitly stated that the purpose of the ADA was to:

- (i) provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;
- (ii) provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities; and,
- (iii) invoke the sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate

commerce, in order to address the major areas of discrimination faced on a daily by people with disabilities.

42 U.S.C. §12101(b)(1)(2) and (4).

10. Pursuant to 42 U.S.C. §12181(7) and 28 C.F.R. §36.104, at the time of Plaintiff's visit, the Subject Facility and Defendant's Property was a place of public accommodation, and it is believed that Defendant's Property will likewise be reopened to the public in the future.

11. The Plaintiff believes that the Defendant has the financial ability to make the readily achievable accessibility modifications that are required under the ADA.

12. Defendant had discriminated against the Plaintiff, and others who are similarly situated, by denying full and equal access to, and full and equal enjoyment of the facilities, privileges, advantages and/or accommodations at Defendant's Property, in derogation of 42 U.S.C. §12101, et. seq., and as prohibited by 42 U.S.C. §12182, et. seq., and by failing to remove architectural barriers pursuant to 42 U.S.C. §12182(b)(2)(a)(iv), where such removal is readily achievable.

13. The Plaintiff had been unable to, and will continue to be unable to visit the future facility, and enjoy full and equal safe access to, and the benefits of, all the accommodations and services offered at Defendant's Property, due to the architectural barriers at the Subject Facility. Prior to instituting the instant action, Plaintiff personally visited Defendant's Property, and previous tenant Macondo Belts, with the intention of using Defendant's facilities, but was denied access into the Subject Property, and therefore suffered an injury in fact. In addition, Plaintiff continues to desire to visit Defendant's Property in the future when it reopens to the public, but will be unable to due to the inaccessible architectural barriers which remain at Subject Property, all in violation of the ADA, and the New York State Human Rights Law.

14. Pursuant to the mandates of 42 U.S.C. §12134(a), on July 26, 1991, the Department of Justice, Office of the Attorney General, promulgated Federal Regulations to implement the requirements of the ADA, known as the Americans with Disabilities Act Accessibility Guidelines (hereinafter “ADAAG”), 28 C.F.R. Part 36, under which said Department may obtain civil penalties of up to \$110,000 for the first violation and \$150,000 for any subsequent violation.

15. The Defendant’s Subject Facility is in violation of 42 U.S.C. §12181, et. seq., the ADA and 28 C.F.R. §36.302, et. seq., and discriminated against the Plaintiff as a result of inter alia, the following specific ADA violations:

- (i) Failure to provide an accessible entrance to the Subject Facility, due to multiple steps at said entrance, without an ADA-compliant ramp, ADA-compliant directional signage and/or an ADA-compliant wheelchair lift, in violation of 28 C.F.R. Part 36, Section 4.14.
- (ii) Failure to provide a safe and accessible means of egress from the Subject Facility, in violation of 28 C.F.R. Part 36, Section 4.3.10.
- (iii) Failure to provide ADA compliant directional and/or informational signage at the Subject Facility, as required by 28 C.F.R. Part 36, Section 4.1.3(16).

17. Upon information and belief, there are other current violations of the ADA at Defendant’s Property, and only once a full inspection is done can all said violations be identified.

18. To date the architectural barriers, the removal of which is readily achievable, and other violations of the ADA still exist and have not been fully remedied or altered in such a way as to fully comply with the provisions of the ADA.

19. Pursuant to the ADA, 42 U.S.C. §12101, et seq., and 28 C.F.R. §36.304, the Defendants are required to make the Subject Facility and Defendants' Property accessible to persons with disabilities since January 28, 1992. To date, the Defendants have failed to fully comply with this mandate.

20. Pursuant to 42 U.S.C. §12188, this Court is vested with the authority to grant the Plaintiff's injunctive relief; including an order to alter the Subject Facility and Defendants' Property to make it independently accessible to, and useable by, individuals with disabilities to the extent required by the ADA, prior to it being reopened to the public.

## **COUNT II - VIOLATIONS OF THE NEW YORK CITY HUMAN RIGHTS LAW**

21. The New York City Human Rights Law provides:

(a) It shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place or provider of public accommodation because of the actual or perceived ... disability ... of any person, directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof ... to the effect that any of the accommodations, advantages, facilities and privileges of any such place or provider shall be refused, withheld from or denied to any person on account of ... disability ...

NYC Admin. Code § 8-107(4)(a).

22. Defendant, 535 HUDSON REALTY LLC, a New York limited liability company, is in violation of the New York City Human Rights Law by denying the Plaintiff full and safe access to all of the benefits, accommodations and services of the Subject Facility and/or Defendants' Property.

23. The Plaintiff repeats and re-alleges the allegations of paragraphs 1 through 20 as if set forth in their entirety here.

## **COUNT III - VIOLATIONS OF THE NEW YORK STATE HUMAN RIGHTS LAW**

24. The New York State Human Rights Law provides:

(a) It shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation.... because of the ... disability ... of any person, directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof ... to the effect that any of the accommodations, advantages, facilities and privileges of any such place shall be refused, withheld from or denied to any person on account of ... disability ...

NYS Exec. Law § 296 (2)(a).

25. Defendant's Property was, and shall likely be in the future, a place of public accommodation as defined in the New York State Human Rights Law.

26. The Defendant has further violated the New York State Human Rights Law by being in violation of the rights provided under the ADA.

27. Defendant 535 HUDSON REALTY LLC, a New York limited liability company, is in violation of the New York State Human Rights Law by having denied the Plaintiff full and safe access to all of the benefits, accommodations and services of the Subject Facility and/or Defendants' Property.

28. The Plaintiff repeats and re-alleges the allegations of paragraphs 1 through 22 as if set forth in their entirety here.

**COUNT IV - VIOLATION OF THE ADMINISTRATIVE CODE  
OF THE CITY OF NEW YORK**

29. The Defendant has subjected the Plaintiff to disparate treatment by having directly and/or indirectly refused, withheld, and denied the full accommodations of the Subject Facility and/or Defendants' Property, and advantages, facilities and privileges therein, all because of Plaintiff's disability, in violation of Administrative Code § 8-107(4).

30. The Defendant has discriminated against Plaintiff in violation of Administrative Code of the City of New York, § 8-107(4), and Local Law 58 by having maintained and/or created an inaccessible place of public accommodation.

31. The Local Civil Rights Restoration Act of 2005 (the "Restoration Act"), also known as Local Law 58, clarified the scope of the Administrative Code in relation to the New York City's Human Rights Law. The Restoration Act confirmed the legislative intent to abolish "parallelism" between the Administrative Code and the Federal and New York State anti-discrimination laws by stating as follows:

The provisions of this title shall be construed liberally for the accomplishment of the uniquely broad and remedial purposes thereof, regardless of whether federal or New York State civil and human rights laws, including those laws with provisions comparably-worded to provisions of this title, have been so construed.

Restoration Act § 7 amending Administrative Code § 8-130 (emphasis added).

32. The Administrative Code is to be construed broadly in favor of Plaintiff to the fullest extent possible. Albunio v. City of New York, 2011 NY Slip Op 02480 (N.Y. Court of Appeals, March 31, 2011).

33. As a direct and proximate result of the Defendant's unlawful discrimination, in violation of Administrative Code of the City of New York, Plaintiff has suffered an injury in fact.

34. The Defendant's long-standing refusal and/or lack of effort to make Defendant's Property fully accessible was egregious and undertaken with reckless disregard to Plaintiff's rights under the Administrative Code.

35. By failing to comply with the law in effect for decades, the Defendant had articulated to disabled persons, such as the Plaintiff, that they in effect are not welcome and not desired at Defendant's Property.

36. The Defendant's past unlawful discriminatory conduct constitutes willful and wanton violations of the Administrative Code for which Plaintiff is entitled to an award of punitive damages. Administrative Code § 8-502.

37. The Plaintiff repeats and re-alleges the allegations of paragraphs 1 through 27 as if set forth in their entirety here.

**ATTORNEYS' FEES AND COSTS**

38. The Plaintiff has been obligated to retain the undersigned counsel for the filing and prosecution of this action. The Plaintiff is entitled to have his reasonable attorneys' fees, costs and expenses paid by the Defendant, pursuant to the ADA and the New York City Human Rights Law.

39. Plaintiff prays for judgment pursuant to N.Y. Exec. Law § 297, including compensatory damages contemplated by § 297(9).

**DAMAGES**

40. The Plaintiff demands one thousand dollars (\$1,000.00) in compensatory damages based on Defendant's violation of the New York City Human Rights Law and the New York State Human Rights Law, plus punitive damages pursuant to the Administrative Code of the City of New York.

**INJUNCTIVE RELIEF**

41. Pursuant to 42 U.S.C. § 12188, this Court is vested with the authority to grant the Plaintiff's injunctive relief; including an order to alter the Subject Facility and Defendant's Property to make it readily accessible to, and useable by, individuals with disabilities to the extent required by the ADA, the New York City Human Rights Law, and the New York State Human Rights Law, prior to it being reopened to the public.

WHEREFORE, the Plaintiff hereby demands judgment against the Defendant and requests the following injunctive and declaratory relief:

A. The Court declare that the Subject Property and Subject Facility owned, operated, leased, controlled and/or administered by the Defendant is

violative of the ADA, the New York City Human Rights Law, and of the New York State Human Rights Law;

- B. The Court enter an Order requiring the Defendant to alter Defendant's Property and Subject Facility to make them accessible to and usable by individuals with disabilities to the full extent required by the Title III of the ADA and by NYCHRL, and the NYSHRL;
- C. The Court enter an Order directing the Defendant to evaluate and neutralize its policies, practices and procedures toward persons with disabilities, for such reasonable time so as to allow the Defendant to undertake and complete corrective procedures to the Defendant's Property;
- D. The Court award reasonable attorney's fees, all costs (including, but not limited to court costs and expert fees) and other expenses of suit, to the Plaintiff; and
- E. The Court award such other and further relief as it deems necessary, just and proper.

Dated: This 24th day of August, 2020.

Respectfully submitted,

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